

**REMARKS**

Claims 1-4 are pending. Claims 1 and 2 are amended herein and claim 4 is added.

Claims 1 and 2 have been amended to more accurately reflect the claimed invention. Support for the amendment of claim 1 can be found in the specification in Figure 1 and Examples 2-3 of the specification, page 7, line 3 through page 9, line 9. Support for the amendment of claim 2 can be found in Examples 4-5 of the specification, page 9, line 10 through page 10, line 20. New claim 4 is supported by claim 1 as well as the above-noted disclosures. No new matter has been added.

Pending claims 1-4 considered together with the following remarks are believed sufficient to place the application into condition for allowance. Accordingly, an early and favorable action on the merits is earnestly solicited at present.

**Issue Under 35 U.S.C. § 101, Non-Statutory Subject Matter**

Claim 1 stands rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Examiner states that the claim does not sufficiently distinguish over a threonine importer sequence present in nature from *Corynebacterium glutamicum*.

Reconsideration and withdrawal of the above rejection is respectfully requested based on the following considerations.

Claim 1 has been amended to now recite "An isolated threonine importer from *Corynebacterium glutamicum*...".

**Issue Under 35 U.S.C. § 112, First Paragraph, Written Description**

Claims 2-3 stand rejected under 35 U.S.C. § 112, first paragraph, as lacking written description support in the specification.

Reconsideration and withdrawal of the above rejection is respectfully requested based on the following considerations.

In responding to this rejection, Applicants have amended claim 2 to recite "... in a *Corynebacterium glutamicum* strain having low-threonine-requirement as compared to a strain having normal threonine-requirement".

The specification, on page 6, lines 1-6, recites that, "A threonine importer-defective strain was prepared from *Corynebacterium glutamicum*, in order to use the defective strain as a host strain for cloning a threonine importer. To this end, a high-threonine-requiring strain was prepared from a low-threonine-requiring strain."

Applicants argue that the claimed method is defined by the presence of this DNA sequence, therefore, one skilled in the art would recognize and conclude that the Applicants were in possession of the structural feature as recited in Claims 2-3. In conclusion, the specification satisfies the written description requirement of 35 U.S.C. § 112, first paragraph, with respect to the full scope of Claims 2-3.

**Issue Under 35 U.S.C. § 102(b)**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Nakagawa *et al.* (US 2002/0197605).

The Examiner argues that Nakagawa *et al.* discloses *Corynebacterium glutamicum* of SEQ ID NO.1.

Reconsideration and withdrawal of the above rejection is respectfully requested based on the following considerations.

Upon review of the entire disclosure of Nakagawa *et al.*, this reference sequenced the entire *Corynebacterium glutamicum* genome and Figure 1 shows the positions of typical genes. Nakagawa *et al.* does not teach the defined nucleic acid sequence corresponding solely to the threonine importer gene. In contrast, the present invention is drawn to a defined nucleic acid sequence corresponding solely to the threonine importer gene from *Corynebacterium glutamicum*, and not the entire genome. Nowhere in the disclosure of Nakagawa *et al.* does it recite a threonine importer gene. Since the present claimed invention is drawn only to a threonine importer gene from *Corynebacterium glutamicum* identified by a SEQ ID NO. and

not the entire genome, Applicants argue that Claim 1 is patentable over the prior art, particularly in view of the present amendment. Claim 1 is not broadly drawn to the entire *Corynebacterium glutamicum* genome.

### Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eggerton A. Campbell, Reg. No. 51,307, at the telephone-number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

Dated: August 27, 2008

Respectfully submitted,

By 

Craig A. McRobbie

Registration No.: 42,874

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

